

ORDINANCE NO. 10-67

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REVISING THE FINAL HIALEAH, FLA., LAND DEVELOPMENT CODE TO REFLECT PERTINENT CHANGES TO THE HIALEAH CODE AND RELEVANT CHANGES IN STATE LAW ENACTED SINCE THE DATE OF THE LAST REVISION, INCLUDING, BUT NOT LIMITED TO, AMENDING REGULATION NO. 2. USES OF LAND AND WATER, LAND DEVELOPMENT REGULATION NO. 7 ENTITLED "SIGN REGULATION" AND LAND DEVELOPMENT REGULATION NO. 10. SUBDIVISION OF LAND; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE HIALEAH, FLA., LAND DEVELOPMENT CODE AND THE HIALEAH CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 13, 2010 recommended approval of this ordinance; and

WHEREAS, the purpose and intent of this ordinance is to revise the Hialeah, Fla., Land Development Code to reflect changes in the planning regulations and policies, Hialeah Code and Florida law enacted since the last revision pursuant to Hialeah, Fla., Ordinance 09-67 (Sept. 10, 2009); and

WHEREAS, the incorporation of these changes are required so that provisions of the Hialeah, Fla. Land Development Code correspond to the existing Hialeah Code provisions to provide a uniform set of land development regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The Hialeah, Fla., Land Development Code as incorporated in the Code of Ordinances of the City of Hialeah, Florida is hereby revised and amended to read as follows:

PART III

LAND DEVELOPMENT CODE

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REGULATION NO. 2 USES OF LAND AND WATER

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Sec. 2-2. Relationship between land use classifications and zoning districts or designations.

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TABLE 1. RELATIONSHIP BETWEEN LAND USE CLASSIFICATIONS AND ZONING DISTRICTS

<i>Future Land Use Map Classification</i>	<i>Zoning District</i>
*	*
Commercial	OPS office and professional services B-1 highly restricted retail district C-1 restricted retail commercial C-2 liberal retail commercial C-3 extended liberal commercial C-4 commercial district CRMU commercial-residential mixed use (overlay district) <u>NBD neighborhood business district (overlay district)</u> P parking district
Commercial recreation	Any commercial zoning district with an associated recreational component that is appropriate, to wit: places of public assembly where entertainment is offered for a fee <u>HPD Hialeah Park district</u>
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REGULATION NO. 7 SIGN REGULATION

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Sec. 7-2. Definitions.

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(w) *Internally illuminated sign.* Any sign having characters, designs, logos or outlines illuminated by lights within the signs or luminous tubes designated for that purpose.

(x) *LED sign* means any sign made primarily of Light Emitting Diodes (LED). A full color LED sign means a sign that uses red, green and blue (RGB) colors comprising a "pixel" and which is similar to a computer monitor or television that displays colors to achieve high impact resolution or video. A single color or grayscale LED sign means any sign where the pixels comprise a single color, usually red or amber. Grayscale describes the ability of individual LEDs to vary in brightness to create shaded pictures or graphics. A nit is a unit of measure that measures the light emitted from an LED device.

(xy) *Instructional sign.*

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Sec. 7-4. Required signs.

(a) *Safety signs.* Safety markings prescribed by fire authorities.

(b) *House or building numbers.*

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(5) All assisted living facilities with 15 or more residents must identify the facility with lettering "ALF" at least six inches, but not more than ten inches in height adjacent to the address identification. All community residential homes housing 14 or fewer residents must identify the facility with lettering

“CRH” at least six inches but not more than ten inches in height adjacent to the address identification. All residential care and treatment facilities must identify the facility with lettering “RCTF” at least six inches but not more than ten inches in height adjacent to the address identification. These identification signs must be easily visible from the street or property line facing the front of the building. If the residential buildings are located in residential areas or zoning districts, the type of signs is limited to an affixed wall or façade sign with the required lettering for identification and no other information that would constitute advertising or promotion.

(6) All family day care homes licensed or registered with the state department of children and family services located in residential zoning districts must identify the facility with an affixed wall or façade sign with lettering “FDCH” at least six inches, but not more than ten inches in height, adjacent to the address identification if possible. All large child care homes licensed or registered with the state department of children and family services located in residential zoning districts must identify the facility with an affixed wall or façade sign with lettering “FCCH” at least six inches, but not more than ten inches in height, adjacent to the address identification if possible. These identification signs must be easily visible from the street or property line facing the front of the building. No other information or signage that would constitute advertising or promotion, including, but not limited to, murals, flags, banners and decorations, shall be allowed.

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Sec. 7-12. LED signs.

(a) Purpose. The purpose of LED regulations as set forth herein is to provide an alternative to traditional signage that will contribute to more efficient energy use and to reduce visual sign clutter and the number of free-standing signs. The use of LED signs will allow a property or business owner to consolidate advertising using a single

sign instead of relying on multiple signs, banners or flags on the property or premises.

(b) Geographic area. The LED regulations are limited to a geographic area comprising of three distinct areas: (1) properties fronting West 49 Street, from the west side of West 4 Avenue to West 20 Avenue; (2) properties fronting West 16 Avenue, from Okeechobee Road to West 49 Street; and (3) properties fronting Okeechobee Road, on the northern side, from West 16 Avenue to West 20 Avenue.

(c) Permitted signs. Only on property zoned industrial or on property zoned commercial, an LED sign is allowed on a property having a frontage of at least 100 feet on a public right-of-way, subject to the regulations set forth in this section. Only signs advertising the business located on the property where the sign is located shall be permitted. Third-party advertising is prohibited.

(d) Maximum number. Only one free-standing LED sign or one LED wall sign is allowed for each property. If a free-standing LED sign is located on a property, all existing pole, pylon or monument signs on the same property shall be removed before installing a proposed free-standing LED sign. If a free-standing LED sign exists on a property, no pole, pylon or monument signs shall be installed on the same property in the future. If an LED wall sign is located on a property, it is not required to remove all existing pole, pylon or monument signs on the same property.

(e) Distance from residential-zoned properties. An LED sign shall be placed at a distance no less than a 300-foot radius from the property lines of a residential-zoned property.

(f) Hours of operation. The maximum hours of operation of an LED sign shall be limited from 6:00 a.m. to 12:00 a.m. (midnight).

(g) Types of signs.

(1) Monument signs.

a. LED displays allowed. Full color, single color and grayscale LED displays are permitted. One LED display is allowed within the sign.

b. Maximum area. The total maximum sign area, including the sign face and structure, is 48 square feet.

c. Maximum height. The maximum height shall be six feet from the street grade to the top of the sign structure except for curved designs where the top of the arch shall extend to 7.5 feet in height; provided that the extended height satisfies line-of-sight requirements.

(2) Pylon signs.

a. LED displays allowed. Single color and grayscale LED displays are permitted for new pylon signs or existing pylon signs that conform to current sign regulations. LED displays on existing pylon signs may only be approved by a variance if the existing sign is a legal nonconforming sign or a legal nonconforming pole sign that is converted to a pylon sign; provided, however, that sign structure is screened with decorative aluminum or natural materials such as granite and includes enhanced landscaping. If a legal nonconforming pylon sign or legal nonconforming pole sign is replaced by a monument sign or wall sign on a property with a frontage of more than 50 feet and otherwise complies with the requirements of this section, then the LED monument sign shall be allowed without a required variance.

b. Maximum area. The maximum sign area allowed, including the sign face and structure, is 120 square feet.

c. Maximum height. The maximum height shall be 20 feet from the street grade to the top of the sign structure. The height of the LED display itself shall not exceed 15 feet.

(3) Wall signs.

a. LED displays allowed. Single color and grayscale LED displays are permitted for new wall signs or existing pylon signs that conform to current sign regulations. LED displays on existing wall signs may only be approved by a variance if the existing sign is a legal nonconforming sign.

b. Maximum area. The maximum sign area allowed is the same as wall signs in the HDUC zoning district.

c. Maximum height. The maximum height is the same as wall signs in the HDUC zoning district.

(h) Illumination, technical and operational requirements.

(1) All LED displays shall automatically adjust its intensity of illumination based on the natural light conditions occurring at the time of adjustment.

(2) All LED displays shall contain a default mechanism that freezes the image in one position in the event of a malfunction. The sign owner or operator shall respond to a malfunction within one hour of city notification of the malfunction.

(3) Change of messages shall occur simultaneously on the entire sign face. Each message shall be displayed for a duration of no less than eight seconds in time and any change of message must be occur within two seconds in time.

(i) Issuance of permits.

(1) Building and electrical permits are required. Any LED sign facing a state road shall comply with state department of transportation sign regulations and requirements. The contractor or property owner shall provide written consent from the state department of transportation for the installation of the sign prior to the city issuing its permits for the sign.

(2) Prior to the issuance of permits for a sign, the sign contractor or property owner shall submit to the city

data relating to glare and brightness of the LED display, measured in nits, that is usually is provided by the manufacturer.

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REGULATION NO. 10 SUBDIVISION OF LAND

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Sec. 10-4. Waiver of plat.

(a) Mango Hill

(1) If a proposed or existing improvement to a residence extends beyond the building envelope in the subdivision known as Mango Hill, encompassing property located between West 8 Avenue and West 12 Avenue, from West 37 Street to West 44 Place, Hialeah, Florida, according to the plat thereof, as recorded in plat book 105, page 30, of the public records of Miami-Dade County, Florida, the property owner may apply for a waiver of plat, provided that the improvement, if approved, satisfies all other requirements as specified in the Mango Hill plat. The property owner must provide written consent from the homeowner's association according to its bylaws, rules or regulations for the improvements.

(2) A property owner may apply for a waiver of plat, provided that the improvements are located in the rear yard enclosed by a fence, but outside three feet from the location of the rear fence or outside two feet from the location of the side fence, for only the following structures or improvements:

- a. Open-air terraces.
- b. Open-sided, roof-covered terraces.
- c. Open-sided aluminum terraces.
- d. Prefabricated utility sheds constructed of material identified in section 98-1670(a) but not exceeding 72 square feet in total area and not exceeding seven feet

in height. Prefabricated utility sheds may not be designed to resemble a barn or installed with a pitched roof that resembles a barn.

(3) A property owner may not apply for a waiver of plat to construct or legalize an addition to the existing residence, an accessory building or any terrace that is enclosed by walls.

(4) A certificate of unit verification must be obtained if the zoning designation of the property requires a certificate of reoccupancy prior to the issuance of the waiver of plat. The certificate of unit verification, if issued, shall state that the city has inspected the dwelling and determined that the dwelling complies with the residential occupancy regulations of the zoning district on the property wherein the dwelling unit is located. If the city grants a waiver of plat, a certified copy of the approved waiver shall be recorded in the county public records, with a notation on the plat retained by the city.

(b) R-Z Residential zero lot line district.

(1) If a proposed or existing addition to a residence extends beyond the limits of the building envelope, a property owner may apply for a waiver of plat, provided that the building, if approved, satisfies all other requirements of the R-Z residential zero lot line district, by administrative variance or in the manner of a zoning variance according to the limitations provided in Hialeah Code § 98-931.

(c) Temporary waiver of plat. A temporary waiver of plat is of a limited time duration and may be granted only conditioned on obtaining an approved plat within a reasonable time agreed to by the city.

(d) Waiver of plat. The city may grant a waiver of plat but only under circumstances that present substantial hardship created by the conditions on the property, but not for financial or economic hardship. A waiver of plat may be granted for development of affordable housing owned and operated by the city.

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Sec. 10-45. Site plan review.

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(1) *Current inventory of sites designated by the Hialeah Historic Preservation Board.*

<i>Date of Designation</i>	<i>Description of Site</i>	<i>Location</i>
*	*	*
2007	Missionary Baptist Church	500 West 23 Street
<u>2009</u>	<u>Iglesia Universal del Reino de Dios</u>	<u>500 Palm Avenue</u>
<u>2009</u>	<u>New Bethel AME Church</u>	<u>2275 West 5 Way</u>

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Hialeah, Fla., Land Development Code and Hialeah Code.

The provisions of this ordinance shall be included and incorporated in the Hialeah, Fla., Land Development Code and Code of Ordinances of the City of Hialeah, as

an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Hialeah, Fla., Land Development Code and the Hialeah Code.

Section 5: Severability Clause.

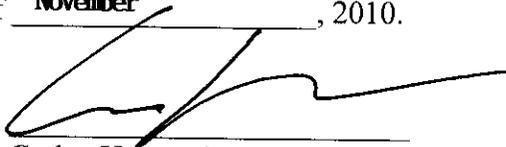
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled city council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 9th day of November, 2010.

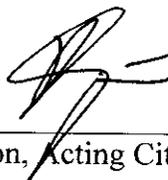
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



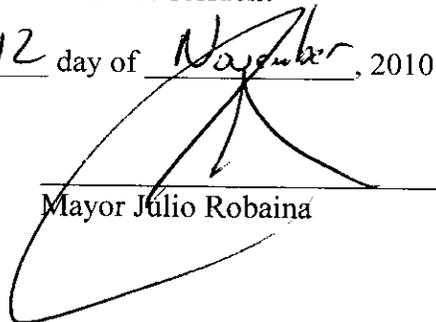
Carlos Hernandez
Council President

Attest:

Approved on this 12 day of November, 2010.

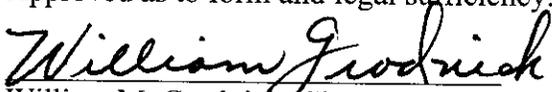


David Concepcion, Acting City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.